



# RAVALLI COUNTY ATTORNEY

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## MEMORANDUM

TO: Laura Hendrix, Floodplain Administrator

FROM: Alex Beal *AB*

CC: Karen Hughes, Planning  
Ravalli County Commissioners

DATE: May 2, 2008

RE: Auch Parcel #147300



I recently had the chance to physically visit the Auch parcel that we have been discussing. Allow me to quote my November 26, 2007, letter to Dustin Chouinard. "[I]f Todd Kleitz granted permission to build on a section of that land in response to a survey, then right or wrong, we will honor that decision." Having received further research from both yourself and from Mr. Chouinard, as well as the visit to the site, it is now clear that Mr. Kleitz, the county employee in charge of the matter at the time, did in fact give permission to build, in fact approving a septic location that was installed a number of years ago.

While it is true that our regulations require a septic system to be hooked into within two years of the permit, our regulations are not the extent of the law. Having

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analyzed this case, it is my conclusion that a jury would find that Mr. Auch justifiably relied upon Mr. Kleitz's permission to install that septic system and in fact expended significant sums of money in furtherance of that reliance. While it was entirely unintentional, the county cannot, in effect, lull Mr. Auch into believing he can build on the site and then years later require significantly more of him. It is my conclusion that we are at this time estopped from requiring more from Mr. Auch given that he has now improved the property based on our prior representations in the form of permits.

Having visited the site my concerns about the parcel have been lessened as well. It is some distance from the river, with a number of buildings between it and the river, as well as Old Corvallis Road, which is in the process of being raised by the County Road Department during its reconstruction.

Accordingly I do not see that the county has any legal basis to deny Mr. Auch an address based upon the past acts of the county. As such I believe we are legally obligated to issue one to him.